

LABOUR DEPARTMENT

The 13th March, 1995

No. 14/13/87-6 Lab./377.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s. Raja Forgings Pvt. Ltd., 226-227, Industrial Estate, Panchkula (Ambala) *versus* Mukh Lal :—

IN THE COURT OF SHRI S. R. BANSAL, ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 259 of 1991

WORKMAN SHRI MUKH LAL, THROUGH HOUSE NO. 27-A, SECTOR 19, PANCHKULA (AMBALA)

and

THE MANAGEMENT M/S. RAJA FORGINGS PVT. LTD., 226-227, INDUSTRIAL ESTATE,
PANCHKULA (AMBALA)

Present :

W.R. Shri A. S. Bagri.

M.R. Shri Deepak Arora.

AWARD

In exercise of the powers conferred by clause (c) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947 (for short called as 'Act'), the Governor of Haryana, referred the following dispute between the workman Shri Mukh Lal and the management M/s. Raja Forgings Pvt. Ltd., 226-227, Industrial Estate, Panchkula (Ambala) to this court for adjudication,—vide Haryana Government notification bearing No. 38157—61, dated the 30th October, 1991 :—

Whether the termination of services of Shri Mukh Lal is valid and justified ? If not so, to what relief is he entitled ?

The workman served the present dispute by serving a demand notice under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate Government made the above mentioned reference to this court.

On receipt of the reference notices were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim, dated 12th May, 1992. He stated that he joined the post of helper with the management on 7th January, 1990 and his services were terminated on 16th June, 1991 without serving any charge-sheet, show cause notice and pay in lieu of notice and also without payment of retrenchment compensation. It was also alleged that the juniors of workman were retained in service. The workman demanded his reinstatement with continuity of service and back wages.

On the other hand the management pleaded that the workman was appointed on casual basis from 1st May, 1991 to 26th July, 1991, when his services automatically came to an end on the expiry of casual period.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision :—

- (1) Whether the termination of the services of Shri Mukh Lal is valid and justified ? If not so, to what relief is he entitled ? OPP.
- (2) Relief.

Parties led evidence. I have heard the representatives of the parties. My findings are as under :—

Issue No. 1 :

The workman stated that he joined the management on 7th January, 1990 and his services were terminated on 16th June, 1991 without any chargesheet, enquiry, show-cause notice or payment of retrenchment

compensation. He demanded his reinstatement with continuity of services and back wages. During cross-examination he denied that he joined the management on 1st May, 1991. No doubt the management has produced MW-1 who produced Ex. M-1 copy of appointment letter, but this witness nowhere stated that this appointment letter was issued to the workman. He rather stated that the appointment letter contains the signatures of Shri A.K. Malhotra. This witness in fact joined the management in the year 1992. He could not deny during cross-examination that the termination of services of workman is illegal or not. The management at no stage put this appointment letter Ex. M-1 to the workman during cross-examination, nor asked him that he signed any such appointment letter. It has also not been proved that appointment letter Ex. M-1 has been signed by the workman. The management witness even could not deny that the termination of the services of workman is illegal or not. It, therefore, appears that the signatures of the workman were obtained in a blank paper which was later on converted into appointment letter Ex. M-1. In any case the stand of the workman throughout has been consistent, who categorically stated that he joined the service of the management on 7th January, 1990 and his services were terminated on 16th June, 1991. He thus served continuously the management for more than 240 days of service in a calendar year. It is nobody's case that a charge-sheet was served or any show-cause notice was given or that matter any retrenchment compensation was paid. Under the circumstances, I hold that the termination of the services of workman is illegal and he is entitled to reinstatement with continuity of service and back wages. The finding on this issue is, therefore, returned in favour of the workman and against the management.

Relief:

In the end, it is held that the workman is entitled to reinstatement with continuity of service and back wages.

The reference shall stand answered accordingly.

Dated the 8th February, 1995.

S. R. BANSAL,

Addl. District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.

Endst. No. 161, dated 9th February, 1995.

Forwarded, (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.

The 24th March, 1995

No. 14/13/87-6Lab./408.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of Chief Conservator of Forests, Haryana, Chandigarh *versus* Ranbir Singh :—

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 336/90

Date of Receipt : 20-3-1990

Date of Decision : 1-3-1995

SHRI RANBIR SINGH (SINCE DECEASED) REPRESENTED BY MUNISHI RAM,
FATHER AND SHRIMATI SHANTI, MOTHER, V. P. O. JUGLAN, TEHSIL &
DISTRICT HISAR

.. Applicant

versus

1. CHIEF CONSERVATOR OF FOREST, HARYANA, CHANDIGARH
2. DISTRICT FOREST OFFICER, SOCIAL, HISAR
3. RANGE OFFICER, FOREST HISAR,

.. Respondent.
Management.

Present :

Shri Darshan Singh, for the workman.
Shri Sita Ram, ADA, for management.

AWARD

In exercise of the powers conferred by clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act'), the Governor of Haryana referred the following dispute between Ranbir Singh (since deceased) and the above mentioned management for adjudication to this Court,—vide Labour Department, letter No. Hsr/2P-1-89/9959-66, dated 7th March, 1990 :—

"Whether termination of services of Ranbir Singh is justified and in order? If not, to what relief is he entitled?

2. According to Ranbir Singh, deceased, he was appointed as Beldar in 1986 and he worked as such upto 8th October, 1989, when his services were terminated without serving him any notice and without paying him any retrenchment compensation. The deceased therefore, claimed that termination of his services amounted to "retrenchment" being in violation of Section 25-F of the Act. He therefore, prayed for reinstatement with full back wages and other consequential benefits. During the pendency of the case, Ranbir Singh died on 20th March, 1993 and since he was unmarried, his parents were brought on record as his Legal Representatives.

3. The management, in its written statement, gave vague replies and stated that Labourers were appointed on daily wages as and when required and they were removed on the completion of the work. It was claimed that the provisions of the Act were not applicable to the daily paid labour and such, no enquiry was held in this case before terminating the services of the workman.

4. On the above pleadings of the parties, the following issues were framed on 15th October, 1990 by my learned predecessor :—

1. As per terms of reference.
2. Relief.

5. The parties led evidence in support of their rival claims, I have heard Shri Darshan Singh, Authorised Representative of the workman and Shri Sita Ram, ADA for the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1 :

6. The deceased has appeared as his own witness as W-1 and has deposed that he was appointed as Beldar in 1986 and was removed from the job on 8th October, 1989. He further claimed that before removing him, he was not served any notice, nor was paid any retrenchment compensation. The only question put to him in cross-examination was that the work on which he was appointed, was continuing or not and the deceased replied in affirmative.

7. The management examined Phool Singh, Forester as MW-1 and he admitted that the workman was appointed in 1986 and was removed in 1990. He however did not deny that the workman had completed 240 days services prior to his removal. On his own admission, he did not bring the muster rolls for the years 1986 to 1990.

8. Since it is admitted by Phool Singh MW-1 that the workman remained employed from 1986 to 1990, the onus was upon the management to show that the workman had not completed 240 days service the preceding 12 months and the original record had been withheld by the management, adverse inference shall be raised against it and unchallenged testimony of Ranbir Singh, deceased that he worked from 9th October, 1986 to 8th October, 1989, shall prevail. As such, the deceased workman had acquired protection under Section 25-F of the Act and since the provisions of Section 25-F of the Act were not complied with, the termination of services of the deceased is held to be illegal and non-est.

9. Since Ranbir Singh, workman had already died on 20th March, 1993, the relief of reinstatement can not be granted. The legal representatives of the deceased shall, however, be paid wages of Ranbir Singh for the period from 8th October, 1989 to 20th March, 1990. The issues is answered accordingly.

Issue No. 2—Relief :

10. In view of my findings on the above issue, the termination of services of Ranbir Singh, deceased, is held as illegal. The same is hereby set aside. Since the petitioner had died on 20th March, 1993 his reinstatement can not be ordered. However, his legal representatives shall be entitled to his full back wages and other consequential benefits for the period from 8th October, 1989, the date of termination of his service, till 20th March, 1993, the date of his death. The management is directed to pay the amount

of back wages to the parents of the deceased in equal shares within a period of four months, failing which, the management shall be liable to pay interest at the rate of 12% per annum from the date of this award, till the date of actual payment. The reference is answered accordingly, with no order as to costs.

The 1st March, 1995

B. R. VOHRA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorsement No. 302, dated the 6th March, 1995

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh for necessary action.

B. R. VOHRA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

N9. 14/13/87-6Lab/409.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of The Chief Conservator of Forests, Haryana and others *versus* Desh Raj.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 790/90

Date of Receipt : 9-7-90
Date of Decision : 1-3-95

SHRI DESH RAJ S/O MOHAN RAM, VPO NAGPUR, TEHSIL RATIA,
DISTRICT HISAR

.. Applicant.

versus

1. CHIEF CONSERVATOR OF FORESTS, FOREST DEPARTMENT, HARYANA,
CHANDIGARH

2. DISTRICT FOREST OFFICER, SOCIAL/TERRITORIAL, FOREST DIVISION,
HISAR

3. RANGE OFFICER, FOREST, FATEHABAD

.. Respondent-Management

Present :

Shri Darshan Singh, for the workman.

Shri Sita Ram, ADA, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short 'the Act'), the Governor of Haryana referred the following dispute between Desh Raj and the above mentioned management for adjudication to this Court,—vide Labour Department letter No. Hsr/106-90/26662—69, dated 26th June, 1990 :—

Whether termination of services of Desh Raj is justified and in order? If not, to what relief is he entitled?

2. According to the workman, he was appointed as a Beldar in the Forest Department, Fatehabad in April, 1983 and he worked as such upto 30th October, 1989, on which date, his services were terminated in an illegal manner, without giving him any notice and without paying him retrenchment compensation. He has claimed that termination of his services amounted to "retrenchment" as defined in the Act and the same was illegal, being effected in contravention of Section 25-F of the Act. He has, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. The management, in its written statement, stated that the workman was simply engaged on daily wages as casual labour and that the total period of service put in by him, had been shown in annexure as 93 days. It was further stated that since the applicant was engaged on daily wages, there was no need to issue him any notice or charge-sheet. It was also claimed that Forest Department, was not covered under the Act and according to the management, the workman himself left the job at his own accord, when the work was over.

4. On the above pleadings of the parties, the following issues were framed on 11th February, 1991 by my learned predecessor :—

- (1) As per terms of reference.
- (2) Whether the respondent is not industry?
- (3) Relief.

5. The parties led evidence in support of their rival claims. I have heard Shri Darshan Singh, Authorised Representative of the workman and Shri Sita Rzm, ADA for the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1

6. Desh Raj, who appeared as WW-1 has deposed that he was appointed as Beldar in April, 1983 and that his services were terminated on 30th October, 1989, without giving him any notice and without payment him retrenchment compensation. He has denied the suggestion in his cross-examination that he had worked for 93 days in all.

7. On behalf of the management, Margo Ram was examined as MW-1 and according to him, the workman was appointed on 1st January, 1987 and that the workman in all, worked for 93 days as shown in statement. He further deposed that the job on which the workman was appointed, stood accomplished in October, 1989.

8. In this case, the workman had filed an application for summoning of original record via muster rolls for the relevant period and the management produced two extracts from original record, one on 18th April, 1994 and the other on 9th June, 1994. When these two extracts are read together, it would be manifest there from that during the preceding twelve months, the workman had worked for 225 days during the months of November 1988, December 1988, February 1989, March 1989, May 1989 and July to October 1989. As per settled law as held by Hon'ble Supreme Court in the authority reported as *workman of American Express International Banking Corporation versus The management AIR-1986-SC-458*, Saturdays, Sundays and paid holidays are to be counted in a year, while calculating 240 working days and this legal position was also affirmed by our own High Court in the authority reported as *Sunddeep Singh versus PO Labour Court Chandigarh, 1989 (1) RSJ-76*. The workman in our case is to be given benefit of 17 days on account of Sundays and holidays and also computed, the workman would be deemed to have worked for 242 days during the preceding twelve months prior to 30th October, 1989, when his services were terminated. It would, therefore, be seen that the management was bound to comply with the provisions of Section 25-F of the Act, before terminating the services of the workman. This was, however, not done. The termination of services of the workman, has therefore, to be held to be illegal and the management cannot be absolved of its responsibility in complying with the provisions of Section 25-F of the Act, merely by saying that the work stood accomplished. Unless details of the work and its accomplishment are furnished to the Court. The fact also remains that the management had not come to the Court with clean slates, when it stated in the written statement that the workman had worked for 93 days only, because during inspection of original record further attendance of the workman during various months, were revealed.

9. In the light of discussion above, the termination of services of the workman is held to be illegal and the workman is entitled to reinstatement, with full back wages and other consequential benefits. This issue is, therefore, answered in favour of the workman.

Issue No. 3

10. This issue was not pressed by the Authorised Representative of the management and was conceded to him during arguments. This issue is, thus, answered against the management.

Issue No. 3 —Relief.

11. In view of my findings on the above issues, the termination of services of the petitioner is held illegal. The same is hereby set aside. The petitioner is reinstated in the same post forthwith, with full back wages and benefit of continuity of service and other consequential benefits. The reference is answered accordingly, with no order as to costs.

B. R. VOHRA,

The 1st March, 1995.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorsement No. 304, dated the 6th March, 1995.

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana Labour and Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

No. 14/13/87-6Lab./410.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of The Chief Supdt., Government Livestock Farm, Hisar *versus* Rajender.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 141 of 91

Date of Receipt : 18-11-91

Date of Decision : 1-3-95

SHRI RAJENDER, S/O GOPI RAM, C/O SHRI DARSHAN SINGH, PRESIDENT,
DISTRICT AGRICULTURE WORKERS UNION, H. No. 123, GALI NO. 5,
JAWAHAR NAGAR, HISAR .. Applicant.

versus

1. CHIEF SUPERINTENDENT, GOVERNMENT LIVESTOCK FARM, HISAR.
2. SECTOR SUPERINTENDENT-I, GLF, HISAR
3. DEPUTY DIRECTOR, SHEEP BREEDING FARM, HISAR .. Respondent-Management

Present :

Shri Darshan Singh, for the workman.

Shri Sita Ram, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act'), the Governor of Haryana referred the following dispute between Rajender Singh and the above mentioned management for adjudication to this Court,—vide Labour Department letter No. Hsr/40049—56, dated the 18th November, 1991 :—

"Whether termination of services of Rajender Singh is justified and in order? If not, to what relief is he entitled?"

2. According to the workman, he was appointed as Beldar on 3rd May, 1990 by the management and his services were terminated by the management on 31st March, 1991 without giving him any notice and charge sheet etc. He further stated that the termination of his services amounted to "retrenchment" being in contravention of Sections 25-F and 25-G of the Act. He, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. The management, in its separate statements, pleaded that the petitioner had worked for 72 days in Sheep Breeding Farm and 109 days in Government Livestock Farm, Sector-I, Hisar. It was further pleaded that the petitioner had left the job of his own accord. The management also alleged that as the petitioner had not completed 240 days service, he is not entitled to reinstatement.

4. On the above pleadings of the parties, the following issues were framed on 25th May, 1992 by my learned predecessor :—

1. As per terms of reference.
2. Whether the claim is not maintainable?
3. Whether the petitioner abandoned the job himself? If so, to what effect?
4. Relief.

5. The parties led evidence in support of their rival claims. I have heard Shri Darshan Singh, Authorised Representative of the workman and Shri Shia Ram, ADA for the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1

6. Rajinder workman appeared as WW-1 and he stated that he was appointed on the post of Beldar in May, 1990 and that he worked as such continuously for more than 240 days. He further stated that no notice was given to him, nor any retrenchment compensation was paid to him. He denied the suggestion that he himself left the job. The statement showing working days of workman was adduced in evidence as Ex.M-1 in his cross-examination.

7. Shri C. B. Rane was examined as MW-1 and he stated that the petitioner had worked for 109 days from May, 1990 to December, 1990. He admitted in his cross-examination that rest days were not included in these 109 days. He also admitted that no notice was given to the workman, nor any retrenchment compensation was paid to him. He further admitted that no notice was issued to the workman to resume his duties.

8. Shri Zile Singh was examined as MW-2 and he stated that the petitioner had worked for 100 days with them. He admitted in his cross-examination, that rest days were not included in these 100 days.

9. A perusal of Ex. M-1 would show that the management had admitted that the petitioner had worked for 209 days during the period from May, 1990 to March, 1991 and that 34 rest days were not included in these 209 days, which were due to the petitioner. As per settled law, as held by Hon'ble Supreme Court in the authority reported as *Workman of American Express International Banking Cooperation versus The management*, AIR-1986-SC-458, Saturdays, Sundays and paid holidays are to be counted in a year, while calculating 240 working days and this legal position was also affirmed by our own High Court in the authority reported as *Sudeep Singh Mann versus Presiding Officer, Labour Court, Chandigarh 1989 (1) RSJ-76*. The workman in our case is thus to be given benefit of 34 days on account of Sundays and holidays and so computed, the workman would be deemed to have worked for 243 days during the preceding twelve months prior to 31st March, 1991, when his services were terminated. It would, therefore, be seen that the management was bound to comply with the provisions of Section 25-F of the Act before terminating the services of the workman. This was, however, not done. The termination of services of workman has, therefore, to be held to be illegal and the management can not be absolved of its responsibility in complying with the provisions of Section 25-F of the Act.

10. In the light of discussion above, the termination of services of the workman is held to be illegal and the workman is entitled to reinstatement with full back wages and other consequential benefits. This issue is, therefore, answered in favour of the workman.

Issue No. 2 and 4

11. Both these issues were not pressed by the Authorised Representative of the management. Moreover, the management did not produce any document to prove that the petitioner had left the job himself. On the other hand, the conduct of the workman in raising the demand notice, after 8 days from the date of his termination, falsifies the plea of the management that the workman had left the job himself. I, therefore, answered both these issues against the management.

Issue No. 4 Relief.

12. In view of my findings on the above issues, the termination of services of the petitioner is held as illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with full back wages and benefits of continuity of service and other consequential benefits. The reference is answered accordingly with no order as to costs.

The 1st March, 1995.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Hisar.

Endorsement No. 303, dated the 6th March, 1995

A copy, with two spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Hisar.